

CALIFORNIA DEPARTMENT OF INSURANCE
LEGAL DIVISION

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Attorneys for The California Department of Insurance

**BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA**

In the Matter of the Licenses and
Licensing Rights of

**FIRST MERCURY EMERALD INSURANCE
SERVICES, INC.,**

Respondent.

File No. 09OC00884-AP

**FIRST AMENDED
ACCUSATION**

The Insurance Commissioner of the State of California in his official capacity files this
matter and alleges that:

I

Respondent, FIRST MERCURY EMERALD INSURANCE SERVICES, INC.
("EMERALD"), was from February 21, 2008, and now is, the holder of a license issued by the
Insurance Commissioner of the State of California to act as a Fire and Casualty Broker-Agent
(License No. 0G00727).

II

After investigation of affiliated entities First Mercury Insurance Company and CoverX
Corporation dba CoverX Insurance Services for which administrative action has been initiated,

1 the Department of Insurance Investigations Division discovered that from at least November
2 2008, Respondent has in this state acted as the managing general agent for nonadmitted insurer
3 First Mercury Insurance Company through CoverX Corporation, the holder of a license issued by
4 the Insurance Commissioner of the State of California to act as a Fire and Casualty Broker-Agent
5 (License No. 0573926). The three entities are all subsidiaries of First Mercury Financial
6 Corporation, a holding company, and Respondent has in the capacity of a managing general agent
7 transacted the business of insurance in the state, including but not limited to the underwriting and
8 placement of surplus line insurance with residents of the State of California. Respondent also
9 contracted with California surplus line brokers.

11 III

12 The matters hereinabove set forth in Paragraph II show that Respondent aided First
13 Mercury Insurance Company, an entity not licensed to transact the business of insurance in
14 California, to transact insurance with residents of the State of California, in violation of California
15 Insurance Code section 703.

17 IV

18 The matters hereinabove set forth in Paragraphs II and III show that Respondent has not
19 intended to and has not actively and in good faith carried on as a business with the general public
20 the transactions which are permitted by the license which it holds and constitute grounds for the
21 Insurance Commissioner to suspend or revoke the licenses and licensing rights of Respondent
22 pursuant to the provisions of sections 1668(c) and 1738 of the California Insurance Code.

24 V

25 The matters hereinabove set forth in Paragraphs II and III show that the continued
26 transaction of insurance in this State by Respondent would be against the public interest and
27 constitute grounds for the Insurance Commissioner to suspend or revoke the licenses and
28

1 licensing rights of Respondent pursuant to the provisions of sections 1668(b) and 1738 of the
2 California Insurance Code

3
4 VI

5 The matters hereinabove set forth in Paragraphs II and III show that Respondent has
6 shown incompetency or untrustworthiness in the conduct of a business, or has by commission of a
7 wrongful act or practice in the course of a business exposed the public or those dealing with it to
8 the danger of loss and constitute grounds for the Insurance Commissioner to suspend or revoke
9 the licenses and licensing rights of Respondent pursuant to the provisions of sections 1668(j) and
10 1738 of the California Insurance Code.

11
12 VII

13 The matters hereinabove set forth in Paragraphs II and III show that Respondent has failed
14 to perform a duty expressly enjoined upon it by a provision of the Insurance Code or has
15 committed an act expressly forbidden by such a provision and constitute grounds for the
16 Insurance Commissioner to suspend or revoke the licenses and licensing rights of Respondent
17 pursuant to the provisions of sections 1668(l) and 1738 of the California Insurance Code.

18
19 VIII

20 The matters hereinabove set forth in Paragraphs II and III show that Respondent has aided
21 or abetted a person in an act or omission which would constitute grounds for the suspension,
22 revocation or refusal of a license or certificate issued under the Insurance Code to the person
23 aided or abetted and constitute grounds for the Insurance Commissioner to suspend or revoke the
24 licenses and licensing rights of Respondent pursuant to the provisions of sections 1668(n) and
25 1738 of the California Insurance Code.

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IX

The matters hereinabove set forth in Paragraphs II and III show that Respondent has violated a provision of law relating to conduct of business which could lawfully be done only under authority conferred by such license and constitute grounds for the Insurance Commissioner to suspend or revoke the licenses and licensing rights of Respondent pursuant to the provisions of sections 1668(p) and 1738 of the California Insurance Code.

DATED: __12/14/09__

STEVE POIZNER
Insurance Commissioner

By: /s/

JULIE D. SOO
Senior Staff Counsel